

Summary: John Gore Deposition (October 26, 2018)

Prior to 9/8/17, Commerce initiated conversations with DOJ, including a conversation between Secretary Ross and Attorney General Sessions, regarding a citizenship question on the Census. Tr. 58-68, 83-84,112. As of 9/8/17, DOJ staff did not want to raise the issue of the citizenship question. Tr. 68-69. Gore first became involved around Labor Day 2017, through Mary Blanche Hankey and AG Sessions. Tr. 73-75. Gore then spoke with various Commerce officials. Tr. 91-95. In September, Gore facilitated a Ross-Sessions conversation. Tr. 95-112.

Gore wrote the first draft of the DOJ Letter requesting a citizenship question. Tr. 127. The only career Civil Rights Division staff to provide input was Voting Section Chief Chris Herren, who provided edits to the initial draft around 11/1/17. Over the next month, Gore received edits from junior political appointees on his staff, and Sessions advisors Rachael Tucker and Robert Troester; none had experience in VRA cases or in assessing the reliability of CVAP data. Tr. 133-42. Final authorization came from AG Sessions. Tr. 158-60.

The DOJ Letter states that American Community Survey (ACS) CVAP data is not ideal for VRA enforcement because it is a separate data set from the decennial census; does not align in time with the census; are statistical estimates with error margins; and require the use of an estimation technique to arrive at block-level data. But for as long as DOJ has enforced the VRA, it has relied on statistical estimates of CVAP with error margins, Tr. 174-76, 201-03; has never had a single data set with both total population and CVAP, Tr. 182-88; and has always relied on estimation procedures for block-level CVAP data, Tr. 234-36. Gore is not aware of any Section 2 cases that were unsuccessful for these reasons. Tr. 190-91, 194-95, 203-04, 236-40. Gore gave contradictory answers about whether he expected block-level CVAP data to reflect answers to the citizenship question. Tr. 213-23. Gore wasn't familiar with disclosure avoidance techniques used by the Census Bureau to preserve confidentiality, and didn't know whether CVAP data derived from the Census questionnaire would be more precise than the CVAP data DOJ currently uses. Tr. 223-34. Gore is not aware of a case where a VRA claim failed due to reliance on 5-year ACS estimates, which the Census Bureau considers reliable for any geographic area. Tr. 242-47. The Trump Administration has not filed any Section 2 cases. Tr. 249-51.

On December 22, 2017, Acting Census Director Ron Jarmin emailed Arthur Gary at DOJ, stating that Census Bureau staff found that they could produce higher quality CVAP data at lower cost without adding a citizenship question to the Census; Gary forwarded the email to Gore. Tr. 254-61. On 1/9/18, Gary and Jarmin scheduled a meeting for 1/19/17. Tr. 262. Prior to 1/16/17, Gore and Gary had conversations about the Bureau's proposal. Tr. 262-64. Gore discussed the issue in-person with AG Sessions, who made the decision not to have the meeting with the Census Bureau. Tr. 265-72. Gore informed Gary of the decision. Tr. 273-74. On 1/16, Gary canceled the meeting. Tr. 262. While testifying in Congress in May, Gore stated that DOJ's goal was to get the most accurate CVAP data possible, but did not mention the Bureau's proposal for higher-quality CVAP data, or DOJ's refusal to meet to discuss it. Tr. 278-84. Gore claimed he did not know the Census Bureau's views as to the most accurate data, and refused to answer whether he wanted to have a meeting to learn about the Bureau's views. Tr. 284-88. Gore agreed that a citizenship question is not necessary for DOJ's VRA enforcement. Tr. 299-300.

A 4/6/18 briefing memo for AG Sessions states that, in 2017, Secretary Ross requested that DOJ send a letter requesting the citizenship question, and specifically notes that this information is "NOT PUBLIC." Tr. 331-33. Gore acknowledged a conversation with AG Sessions about using a metric other than total population for apportionment purposes. Tr. 338. AG Sessions made the decision to request the citizenship question. Tr. 442.